

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LESLIE RAE YOUNG,

Plaintiff,

vs.

DAVE HEINEMAN, Governor of the
State of Nebraska, in his official
capacity, et al.,

Defendants.

4:10CV3147

ORDER

This matter is before the court on the plaintiff's Motion to Amend Scheduling Order (Filing No. 135). The plaintiff filed a brief (Filing No. 135-1) in support of the motion. The defendants filed a brief (Filing No. 136) in opposition to the motion. The plaintiff filed a brief (Filing No. 137) in reply.

The plaintiff seeks to extend the deadline for filing motions for summary judgment for both parties from the current deadline, June 30, 2014, until November 3, 2014, which would be after the October 31, 2014, discovery deadline. **See** Filing No. 135 - Motion; Filing No. 123 - Progression Order. The plaintiff argues this change would ensure a complete factual record to decide motions for summary judgment. **See** Filing No. 135 - Motion. The plaintiff indicates she is diligently pursuing discovery but the current deadline for summary judgment motions is impractical, especially if depositions uncover facts which may entitle a party to summary judgment. **See** Filing No. 135-1 p. 2. The plaintiff argues a delay in filing the motions for summary judgment would alleviate the need to file motions for extension of time later in the case, but would not delay trial, in any event, because the parties anticipate the matter will be resolved on the motions for summary judgment. **Id.** at 2-3.

The defendants do not oppose a thirty-day extension of the summary judgment deadline, but do oppose delaying the case any longer. **See** Filing No. 136 - Response. The defendants argue delaying summary judgment would necessarily delay resolution of the trial and the case. **Id.** In an attempt to compromise, the defendants state an additional thirty days to conduct discovery would benefit all parties. **Id.**

The plaintiff contends thirty additional days to complete discovery prior to filing motions for summary judgment is inadequate. **See** Filing No. 137 - Reply. The plaintiff

indicates the parties are having discovery disputes, which may resolve themselves if the parties are allowed more time for depositions. *Id.*

The court cannot grant the extension sought by the plaintiff at this time. Rule 16(b)(4) requires the moving party show good cause justifying any modifications to a scheduling order. **See** Fed. R. Civ. P. 16(b); ***Bradford v. DANA Corp.***, 249 F.3d 807, 809-10 (8th Cir. 2001); **see also** Fed. R. Civ. P. 6(b)(1); ***Thorn v. Blue Cross & Blue Shield of Fla., Inc.***, 192 F.R.D. 308, 309 (M.D. Fla. 2000) (“In demonstrating good cause, the moving party must establish that the ‘scheduling deadlines cannot be met despite a party’s diligent efforts.’”) (paraphrasing Fed. R. Civ. P. 16 advisory committee notes (1983 amendment)). Here, the plaintiff fails to provide good cause for the lengthy extension of time. The plaintiff’s motion was filed several months prior to the expiration of the summary judgment deadline. This case was filed in July 2010. **See** Filing No. 1. The parties were cautioned on December 6, 2013, to conduct discovery related to summary judgment motions. **See** Filing No. 120. Further, after a discussion with the parties, the court intentionally allowed the parties time after the summary judgment deadline to conduct discovery, which may be required by the motions themselves. While the court appreciates the plaintiff’s pro-active approach to seeking an extension of time, there appear to be no concrete impediments to completing relevant discovery prior to the summary judgment deadline. The parties appear to have some discovery-related delays, which they are attempting to resolve without court action, justifying a brief extension of the summary judgment deadline. Accordingly,

IT IS ORDERED:

1. The plaintiff’s Motion to Amend Scheduling Order (Filing No. 135) is granted, in part, and denied, in part.
2. The parties shall have an extension of time until **July 31, 2014**, to file any motions for summary judgment.

Dated this 28th day of April, 2014.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge